

From: Kevin Poulsen
To: Microsoft ATR
Date: 1/12/02 8:02pm
Subject: Microsoft Settlement

To whom it may concern,

It has come to my attention, through BeOS channels, that you are accepting proposed remedies to Microsoft's anti-competitive behavior as a monopoly.

To the point:

1. Microsoft should be limited from placing ANY restrictions on resellers. This includes, but is not limited to resellers selling individual copies of software, major/minor computer manufacturers who bundle MS software with their systems, VARs who may give discounts for bulk orders on MS products, etc.
2. Microsoft should be required to publish a price list with all available discounts. Anyone who meets requirements for fair discounts (based on volume, etc.) can get the discounts without any strings attached. Also, end-users should be allowed to upgrade whenever they see fit, instead of being forced into "subscription services".
3. Microsoft NEEDS to be broken into at least 3, preferably 4, independent companies (Mini Micros) using the AT&T breakup as a model. I strongly think we need 2 operating system companies and 2 application companies. Tied to this, COMPLETE OS APIs need to be published to any application/OS manufacturer that requests them.
4. Monetary damages at a staggeringly high number - sufficient to be considered by Microsoft as incentive for avoiding anti-competitive practice in the future. These monies could be placed in a trust fund for a number of years. Anyone who can prove damages, can be paid from this trust fund.

Now, my thoughts on each item:

1. There have been numerous operating systems that could have fared well if it wasn't for Microsoft's heavy hand behind the scenes of computer manufacturers. Examples include OS/2, Dr DOS, many DOS variants, Linux, Unix, and, most recently, the BeOS. I remember when OS/2 came out. I was a student at the time and I saw the two OSs side-by-side in the University computer store. OS/2 looked impressive, but it faded away quickly. I wonder why? I have had a strong interest in the BeOS for about 5 years. I heard that the BeOS was shipping as a dual-boot on some HP computers. I later found out that the computers did ship with the BeOS installed, but that Microsoft prevented HP from adding the BeOS to their boot manager and would

not let them use a third-party boot manager. This severely effected the commercial viability of the BeOS. Computer manufacturers and software distributors should be able to compete on a level playing ground. Microsoft has no place dictating unfair distributor restrictions.

2. Microsoft has frequently played favorites and punished distributors who don't agree to Microsoft's whims (selling OS/2, selling linux, etc). Microsoft should not be allowed to "punish" ANY software distributors. There are valid reasons for giving discounts.. specifically volume. Changing the wholesale price on Microsoft products for "preferred" or "black-listed" vendors is unfair practice. In addition, Microsoft recently initiated a "subscription" policy. Instead of allowing end-users to upgrade when they feel it is appropriate (e.g., when Microsoft provides a decent upgrade product), Microsoft now requires that companies use a "subscription service" for upgrades. This is a clear coercion that would be unnecessary if Microsoft provided a product that was worth the upgrade. End users should be able to indicate approval by upgrading whenever they want.

3. BeWINE is an effort to allow Windows applications to run on the BeOS. WINE also allows Windows applications to run on Linux and X. (<http://bewine.loungenet.org/> and <http://www.winehq.com/>) I would like to see this project succeed, as well as others like it. But, they need ALL of the OS APIs. Breaking Microsoft into 2 companies, one with the OS and the other with applications, simply will NOT provide the open information that is needed. I think it is more important to break Microsoft into 2 OS companies. This is the ONLY way that all the OS APIs will be made public.

4. Microsoft has inflicted amazing monetary damage on competitors as well as on it's customers. If a company (Microsoft) produces a quality product at a fair price, then I don't mind if they make a healthy profit. Microsoft not only has NOT provided a quality product, they know that they can charge outrageous prices as long as they have control. Microsoft's value will undoubtably increase if it is broken up (just look at AT&T and the baby bells). Microsoft's effort to avoid a breakup is clearly so that they can maintain control. Microsoft has to be fined punitive damages relative to it's size. This is the only way to give them a sufficient incentive to compete fairly.

Some additional commentary:

First, my background. I was a network administrator for 5 years working primarily with Windows NT 4.0. Mind you, I wouldn't mind working with Microsoft products if they actually worked the way they should and were priced according to what they are worth.

Windows has traditionally been a very unstable and low performance OS. Microsoft puts effort into "features" that will get customers. But they

routinely include "bugs" that are "fixed" in the next version to entice upgrades. Once blatant example is USB support for Windows NT 4.0. This is not difficult to provide. In fact, I've heard of 3 third-party programmers who had plans to offer it, since Microsoft hasn't included it in any of their 7 service packs. Coincidentally, none of those companies have brought it to market. I know (but can't prove) that Microsoft killed any efforts to offer USB support for Windows NT 4.0 so that users would have to upgrade to Windows 2000.

I've seen many confusing pricing schemes that are designed specifically to drain money from customers. Sometimes, these schemes include charges for no product. In particular, they charge a fee for every computer that accesses a server. They have started a "subscription service" that is effectively the only way to get product upgrades without spending a fortune on "new product" prices for upgrades. We also know that Microsoft charged twice the profitable price for Windows 95.

I became aware of the BeOS about 5 years ago. I watched in anticipation as newer versions came out and as it got great reviews. Finally, with version 4, I thought it was good enough to give it a try. It worked great (and still works great) on my P200. I've since upgraded to 5.0 and I am writing this e-mail using Mail-It on the BeOS. I still use Mail-It for my everyday personal e-mail. There are several sample programs that ship with the BeOS. I eagerly opened 11 of them, including a flight simulator, a Mandelbrot set generator, a spinning Open-GL teapot, a couple of videos, games and a starfield simulation. With all eleven of these applications open and running, some of them slowed slightly, but the equivalent of the Windows Start menu didn't even hesitate when I clicked on it. I bought stock in Be Inc. about the time that it was fluctuating wildly. This was poised to be a great OS. It was almost purchased by Apple. Then, as I later learned, HP (I think) delivered several computers with the BeOS installed. They were supposed to be dual-boot, but Microsoft nixed the dual boot, essentially making the BeOS inaccessible. That, among other things, killed the BeOS. The BeOS was then sold to Palm for 11 million - a mere fraction of it's asking price for Apple. I am hoping that Palm will license to Be United so that we can revive this great OS.

(Please note that my e-mail address will be changing from kwpoulsen@home.com to kwpoulsen@cox.net in the near future, in case you want to contact me.)